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ABSTRACT

The Regents Task Force has as an authorization to consider the implications of collective bargaining for faculty governance, the implications of collective bargaining for institutional autonomy in a system of universities such as the Wisconsin system, and the implications of collective bargaining for recruiting, and retaining quality faculty. Conclusions and recommendations include: (1) The extension of collective bargaining rights to faculty should be based upon a recognition of their dual role as both employees and professionals. (2) The following principles and practices of the University system are essential to maintain a public university system with excellence and should be maintained in any collective bargaining arragnement developed for faculty: institutional autonomy; tenure; academic freedom; merit system for salary; shared governance; and recognition of the responsibilities and authority of the Regents, president, chancellors, faculty, and academic staff. Major issues discussed in the report include: collective bargaining in higher education; collective bargaining rights, their scope and extension; specific provisions in enabling legislation, and the minority statement. Appendixes include statements from faculty, students, and staff, appearances from organized groups, and discussions with national authorities. (Author/PG)

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REPORT
OF REGENTS TASK FORCE ON UNIVERSITY GOVERNANCE AND COLLECTIVE BARGAINING

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March 1975

University of Wisconsin System

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March 14, 1975

To the Board of Regents:

At the March 1974 meeting you authorized the President of the Board to appoint a task force "to consider the implications of collective bargaining for faculty governance, the implications of collective bargaining for institutional autonomy in a system of universities such as this, and the implications of collective bargaining for recruiting and retaining quality faculty...." I have been honored to serve as chairman of this Task Force, which included four Regents, five state legislators, seven professors, and representatives of the students, state government, organized labor, the public, and the University System administration.

The Task Force has addressed what well may be the most important set of issues with long-range consequences facing the UW System since its creation. The rights to organize and bargain collectively have been extended to municipal workers, to elementary, secondary and vocational teachers, and to all state classified employees. The Task Force has concluded that these rights should now be extended to faculty and academic staff of the University System, but only through a separate and special statute which recognizes and protects the traditions and practices of shared governance in Wisconsin higher education.

In its deliberations, the Task Force collected a large and varied volume of literature on the subject of collective bargaining as it affects higher education. This small library as well as minutes of each of the Task Force meetings and the Wingspread conference are available in the office of Associate Vice President Lemon.

We owe a debt of gratitude to the Task Force members who had to labor hard to read the volumes of materials and attend the many meetings over 11 months necessary to comprehend this complex subject. Further, all of the members wish to extend their thanks to the Task Force staff head, Wallace Lemon, to Cynthia Benevenga of the UW Central Administration for secretarial assistance, and to Bonnie Reese of the Legislative Counsel and Richard Dunn of the Department of Administration for their fine liaison and technical assistance.

John M. Lavine

John M. Lavine, Chairman
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Final Report of the University of Wisconsin System
Regents Task Force on
University Governance and Collective Bargaining

BACKGROUND

The subject of collective bargaining rights for faculties in higher education previously was addressed by the Governor's Advisory Committee on State Employment Relations. In their report of December 1970, which led to the present State Employment Labor Relations Act providing collective bargaining rights for state classified employees, the committee concluded that collective bargaining for the faculty in higher education was inappropriate at that time. Their report indicates that faculty members from the State Universities System were emphatic in their concern for economic matters, but also were most concerned with their limited role "in the broad range of academic decision making known as governance." In contrast, some faculty representatives of the University of Wisconsin, while expressing concern regarding salary matters, indicated satisfaction with respect to opportunities for faculty participation in faculty governance, but expressed opposition to collective bargaining.

While the Governor's Committee did not recommend collective bargaining, it did recognize the "unavoidability of collective bargaining if solutions are not found for at least two problems: (1) compensation; (2) faculty participation in university governance." The committee also recommended that the necessary steps be taken to provide the State Universities' faculty with an increased role in university governance.

The University of Wisconsin System was created in 1971 by a state law (Chapter 100), which combined the state's two public university systems under a single board of regents. The merger brought together two systems with somewhat different traditions and practices, particularly in the matters of institutional governance.

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A merger implementation committee worked for about a year to develop legislation which set forth new statutory definitions of authorities and responsibilities to permit the merger to function properly. The implementation bill, which became Chapter 335, Laws of 1973 (hereafter referred to as the "merger law"), established a system of shared governance between the Board, administration, faculty, and students. In addition, the law provides specifically for a faculty role in the management of the campuses and gives them the right to determine their own faculty organization structure and to select representatives to participate in institutional governance, and most importantly, to have the primary responsibility for academic and educational activities and faculty personnel matters. This broad delegation affords former State Universities faculty direct statutory authority and responsibilities for the first time.

During the 1973-75 legislative session bills were introduced by The Association of University of Wisconsin Faculties (TAUWF), the American Federation of Teachers (AFT), and the National Education Association (NEA), providing for extension of collective bargaining rights to faculty and academic staff of the University of Wisconsin System. The bills were generally patterned after the provisions of the Wisconsin State Employment Labor Relations Act, which applies to the state classified civil service employees.

During this same period, a number of University of Wisconsin System campuses experienced severe enrollment decreases which led to budget reductions resulting in layoffs. This prompted a growing concern among faculty for job security. The faculty also were deeply concerned about the

increasing impact of unprecedented inflation on their income.

Faculty groups appearing before the Assembly Labor Committee on the 1973-75 bills generally were united in their concerns on these economic matters, but were not in agreement over the potential impact of collective bargaining on other aspects of higher education, particularly the so-called "governance functions." The TAUWF bill (AB 825A) was recommended for passage by the Assembly Labor Committee, but it was not taken up for consideration by the full Assembly during the 1973-75 session.

In a statement to the Board of Regents at the March 1974 meeting, Professor Clara Penniman expressed concern on behalf of some of the faculties in the UW System that the bills presented to the Assembly Committee did not meet the faculties' minimum requirements and about the potential impact of collective bargaining on the University of Wisconsin System. Professor Penniman recommended that a Regent committee be created to consider the problems and their solution with a view to the future quality of the whole UW System.

The Regents approved the concept and authorized the President of the Board to appoint a committee to include Regents, faculty, administrators, legislators, a student, a state government representative, and a representative of organized labor. The discussion by the Board of Regents in considering the proposal supported the idea of such a study by a broadly representative group because the University presents different problems than encountered in the usual industrial or public employee collective bargaining situation, particularly in such areas as the faculty involvement in institutional governance and the tenure system, and stressed the need therefore to examine the possibility of some new approaches that

recognize these distinct practices.

The President of the Board then appointed a Task Force which included four Regents, four legislators, a chancellor, seven faculty representing various faculty groups, a representative of the Department of Administration, one UW System Vice President, a representative from organized labor and a student. (A list of the members is a part of this report.)

The first meeting of the Task Force was held in April 1974, and there was a discussion of the ground rules and a format to be followed. It was decided that the Task Force needed to have a common baseline of information about the UW System organization and operation, as well as the trends in collective bargaining in higher education both at the state and federal level. It was also agreed to solicit the views and concerns of faculty, students, administrators, academic staff and the public. In meetings during the summer, papers were given on the organization of the UW System, the operation of faculty governance and the tenure system, and the operation of Wisconsin's State Employment Labor Relations Act. Services of the Academic Collective Bargaining Information Service (a national source of information on collective bargaining in higher education) were made available and a great deal of information relating to developments and models around the country was circulated, as well as information from students and faculty. A paper presented by the Director of the Academic Collective Bargaining Information Service, Dennis H. Blumer, set forth an evaluation of collective bargaining in higher education as well as an up-to-date analysis of the status of such developments in the country. Mr. Blumer's report emphasized that there had not been much innovative development of collective bargaining models for higher education throughout the country--rather, the traditional

practices of collective bargaining in industry and public employment tended to be applied, resulting in some distortions and conflicts. He indicated that the U.S. Congress was giving serious consideration to the adoption of collective bargaining legislation which would include public higher education, partly because there was no evidence that the states had developed any distinctive models to meet their own needs.

Written views were received and discussed with a large number of representatives of groups of faculty, students, and administrators from across the UW System.

A national contest was also sponsored to solicit proposals on university governance and collective bargaining solutions with the aim of obtaining ideas and innovative thinking not only from within the UW System, but from across the country. Seventy-five entries were received and two proposals for an overall plan to permit collective bargaining by faculty on wages, fringe benefits and some limited economic issues without upsetting traditional faculty control of academic matters were awarded the major prizes.

A two-day conference on university governance and collective bargaining, sponsored by the Johnson Foundation in cooperation with the Regents Task Force, was held at Wingspread in November. The conference provided a forum in which the Task Force members and a number of the most recognized national scholars and experts on the subject defined and discussed the basic issues involved in collective bargaining and governance in higher education institutions. The discussions focused on the basic principles, models, and concerns that have emerged in collective bargaining in higher education in the nation as well as how they might apply to

Wisconsin's particular system of higher education. Following the two-day conference, the Task Force met for another full day for an in-depth discussion of the major issues covered at the conference.

The Chairman of the Task Force then prepared a working draft of a report which sought to identify and discuss the major issues and to make recommendations on them as well as the specifics that should be included in enabling legislation. The draft was circulated to the Task Force members and others for review and comment. The draft was then addressed in two day-long sessions and each section of the report from beginning to end was discussed, amended and voted upon.

The overall report finally was voted favorably by the Task Force on March 6, 1975

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Summary of Conclusions and Recommendations

1. To be compatible with the traditions and practices of shared authority in Wisconsin higher education, any system of collective bargaining should protect the unique features of university shared governance.
2. The extension of some form of collective bargaining rights to faculty and academic staff appears to be a likely outgrowth of the extension of such rights to municipal, public school and state classified employees in Wisconsin and the continuing national trend to extend such rights to higher education institutions. In view of this, the Task Force concludes that it would be equitable and in the public interest the opportunity to extend to elect to bargain collectively to faculty and academic staff of the UW System, provided that enabling legislation protects and sustains the values of Wisconsin's system of higher education.
3. The extension of collective bargaining rights to faculty should be based upon a recognition of their dual role as both employees and professionals. As employees, faculty have a concern for their personal welfare and financial interests. As professionals, they join with the University administrators, Regents, and students in the development and execution of the instructional, research, and service functions of the University. Collective bargaining should be permitted on economic issues related to their role as employees, while professional and academic matters should be dealt with through shared governance mechanisms. Collective bargaining for academic staff in the UW System should be permitted on economic issues and other conditions of employment.

4. The merger law established and defined a charter for shared governance within the UW System and defines the powers and responsibilities of the Regents, President, chancellors, faculty, academic staff, and students. This charter and its fundamental principle of shared governance should continue to be the guiding policy for the UW System. One of the concerns in designing a collective bargaining entitlement for faculty and academic staff under such a charter lies in devising an arrangement that is workable and also accommodates and protects the heterogeneous character and the individual values of the institutions in the University of Wisconsin System.
5. The following principles and practices of the University System are particularly essential for the people of Wisconsin to maintain a public university system with excellence and should be maintained in any collective bargaining arrangement developed for faculty:
   a. Institutional autonomy and separate missions for each institution
   b. The tenure system
   c. Academic freedom and diversity of opinion
   d. A merit system for salary determination
   e. A preservation of shared governance and the concepts embodied in Chapter 36, Wisconsin Statutes (1973)
   f. Recognition of the responsibilities and authority of the Regents, President, chancellors, faculty, the academic staff and the students as expressed in Chapter 36, Wisconsin Statutes (1973)
6. Any enabling legislation providing collective bargaining rights for faculty and academic staff should be separate from and not a part of

the state or municipal collective bargaining laws and include specific provisions in the following key areas: principles and practices not to be abridged, collective bargaining rights, scope of bargaining, unit determination, the employer, employee agents, definition of faculty and academic staff, elections, hearing functions, impasse procedures, arbitration, role of students, procedure for approval of agreements, and fair share provision.

MAJOR ISSUE 1

Collective Bargaining in Higher Education:

Is collective bargaining compatible with higher education?

Collective bargaining has enjoyed success as a process for resolving labor-management conflicts in the private and public employment sectors. However, experience with collective bargaining in higher education is still so limited that the question is unanswered as to whether the process in a traditional industrial or public employee form can function in higher education without eroding the system of shared governance generally practiced in higher education.

The Task Force examined the concepts and practices of university governance in the UW System as well as in higher education generally throughout the country. It found, as Dr. Donald K. Smith, Senior Vice President of the UW System, stated in his document on "Shared Governance of Universities," that "the most essential characteristic of traditional university governance is the assumption that important decisions are a matter of collegial or shared determination. Proposed actions are initiated at all levels of the University System and proceed by discussion and consultation to the point of decision. The presumptions underlying collegiality are: (a) that all groups involved in the enterprise have the common purpose of sustaining and advancing the recovery, organization, communication and expansion of knowledge; and (b) that the decision and actions which make this possible are best made finally in each case by the persons with the greatest professional expertise relevant to the particular decision. In this sense, governance is a shared enterprise, cooperatively

maintained by members of the community...."

Extension of collective bargaining to public higher education in Wisconsin would mean that faculty and academic staff would have the right to form and join organizations of their own choosing and to designate these as their representatives for bargaining purposes with their institutions and that the employer (Board of Regents) and the faculty designated representatives would have to negotiate in good faith. The process of collective bargaining as practiced in industry and public employment is a process of give and take aimed at achieving and implementing agreement between labor and management. This process is different from the traditional "shared authority" context in which decisions are made in higher education. The education Commission of the States document "Collective Bargaining in Post Secondary Educational Institutions" (March 1974) states that:

> Perhaps the most unique administrative feature of higher education in the United States is the aspiration of administrators and faculty as to the proper principles of academic government. In the main, universities and colleges either are governed by or are aiming ultimately for a system of governance commonly known as shared authority. The essense of the principle of shared authority is a recognition of the inescapable interdependence and interaction between the governing board, the administration and the faculty. These three components--faculty, administration, and board--have the joint authority and responsibility for governing the institution, and there needs to be adequate communication among these three groups and full opportunity for appropriate planning and effort.

In a paper on collective bargaining and faculty governance presented to the Task Force by Dennis H. Blumer, then Director of the Academic Collective Bargaining Information Service, a number of the classic areas of potential conflict in practices between higher education and collective

bargaining are described; these include collegial relationships versus adversarial relationships, individuality versus collective power, merit systems versus equal access to rewards, institutional autonomy versus equal power for employees, flexibility versus procedural safeguards, traditional internal relationships versus new faculty relationships, and student role versus two-party system with no student role.

It is clear then that collective bargaining as it presently operates in industry and public employment may not be compatible with the "shared governance" traditions and practices of higher education. The concern of the Task Force has been to determine whether a new or modified form of collective bargaining can be adapted to higher education and whether clear safeguards can be provided to protect the unique features of Wisconsin's higher education system.

Conclusion

To be compatible with the traditions and practices of shared authority in Wisconsin higher education, any system of collective bargaining should protect the unique features of university shared governance.

MAJOR ISSUE 2

Extension of Collective Bargaining Rights to Faculty and Academic Staff:

Should collective bargaining rights be extended to faculty and academic staff?

More than 30 states have passed enabling legislation giving municipal, county and state employees the right to bargain. This development of new public employee legislation is the major force behind the movement to collective bargaining in higher education. Twenty-four states now have extended collective bargaining rights in legislation to faculty and staff employed in public colleges and universities. Faculty in private institutions have the right to bargain under provisions of the National Labor Relations Act. There were also bills in the last session of the U. S. Congress to extend collective bargaining rights to public employees including those in higher education. In our own state municipal employees, public school teachers, and state classified employees are provided collective bargaining rights under separate enabling legislation.

The Academic Collective Bargaining Information Service reports that the past academic year has seen a continuation of the growth trend in academic collective bargaining, although activity has slowed over prior years. It continues to be largely a public college phenomenon and primarily a community college movement, although most of the institutions organized in the past year were four-year institutions. While unionizing activity formerly took place in relatively few states, activity is now branching into new states making it more of a national pattern. For the first time collective bargaining is being considered by faculty and staff at some of

the larger public universities in states with enabling legislation.

Given this pattern, the Director of ACBIS in his testimony to the Task Force concluded that there is "a certain inevitability about collective bargaining for Wisconsin higher education." At the same time he suggested that the Task Force should tailor the granting of rights to the peculiar needs of Wisconsin's system of higher education.

The Task Force as it assessed the trends was impressed with the continual growth of collective bargaining in higher education nationally and with the arguments that it would be equitable in view of the rights granted other state employees to extend the opportunity to bargain collectively to employees in higher education. Recommendations by this Task Force favoring enabling legislation for collective bargaining are based on the assumption that the quality of higher education in Wisconsin will not be affected adversely because of such legislation. However, it is recognized that the experience of major universities is still very limited. Data are not available as yet to determine what the eventual impact will be on the quality of teaching, research and outreach functions following the initiation of the formal collective bargaining process.

Conclusion

The extension of some form of collective bargaining rights to faculty and academic staff appears to be a likely outgrowth of the extension of such rights to municipal, public school, and state classified employees in Wisconsin and the continuing national trend to extend such rights to higher education institutions. In view of this, the Task Force concludes that it would be equitable and in the public interest to extend the

opportunity to elect to bargain collectively to faculty and academic staff of the UW System, provided that enabling legislation protects and sustains the values of Wisconsin's system of higher education.

MAJOR ISSUE 3

The Scope of Collective Bargaining Rights for Faculty and Academic Staff:

What subjects of bargaining should be permitted with faculty and academic staff that will be compatible with maintenance of the quality of Wisconsin's higher education system?

Most state laws define the scope of bargaining in terms similar to the National Labor Relations Act which covers wages, hours, fringe benefits, and other terms and conditions of employment. The term "conditions of employment" can be interpreted to include the whole range of matters traditionally included under the concept of "shared governance." This kind of broad scope collective bargaining results in a contract providing detailed statements on conditions of employment. The advent of a broad collective bargaining contract inherently changes the relationship of management to employees from that maintained under shared governance, sharpening the role distinctions among the Board, administration, faculty, and students and creating the need for a statement of "management rights."

The assumption that the processes of shared governance as traditionally observed could be maintained under broad scope collective bargaining is questionable. Therefore, the Task Force searched for a more limited definition or model which would protect shared governance mechanisms and practices. The Task Force synthesized into a new model a number of ideas it received which differentiated between economic issues and matters traditionally handled by shared governance. Under this model there would be a system of faculty-university relationships that allows the possibility of

faculty adopting collective bargaining for limited economic issues while at the same time continuing their involvement in university governance. This model recognizes the dual role played by faculty members as both employees and professionals. On the one hand as employees they have a concern for their personal welfare and financial interests and on the other hand, as professionals, they join with the university administration, Regents, and students in the development and execution of the instructional, research and service functions of the university.

Under this model wages and fringe benefits would be bargainable and matters that concern faculty and staff in their professional involvement would not. Some limited nonacademic matters would also be bargainable on an institutional level.

Neil S. Bucklew, Vice President of Central Michigan University, in a paper presented to the Task Force, argued that this model is well suited to the special environment of a university because:

(1) The University is characterized by a unique governance system of "shared responsibility." Faculty perform a crucial professional role in this process. This process is essentially deliberative in nature and the judgments reached are often a result of extensive analysis, consideration and re-consideration. Governance policy has been dynamic in nature and open to a continuing reconsideration by the deliberative process. To force such issues as academic personnel decisions (tenure, promotion, reappointment, etc.) and curricular matters into an adversarial relationship would tend to result in poor decisions--in the long run if not over the short run. The decisions and the process of the decisions would be qualitatively inferior if they were placed in the bargaining context.

(2) Faculty interest in collective bargaining is not intended to diminish or have the possibility of diminishing their professional responsibilities in the university community. Faculty when making a collective bargaining choice would

not desire that the result of collective bargaining should impede or diminish their roles in established university governance processes. To assume a collective bargaining model that was comprehensive in nature would be to ultimately place in jeopardy the established governance structure.

(3) The negotiation and contractualization of governance and academic decision-making systems would have the effect of changing their nature. These processes are deliberate in nature and reflect a commitment to a system of peer evaluation. To place these subjects in a contractual clause means among other things that they are now become matters for contractual grievances. Contractual grievance procedures are defined as "allegations of contractual violations" and represent the method of assuring that the university interprets and applies the contract in an acceptable manner. The university is the "actor" and the union the "reactor" or grievant.

Conclusion

The extension of collective bargaining rights to faculty should be based upon a recognition of their dual role as both employees and professionals. As employees, faculty have a concern for their personal welfare and financial interests. As professionals, they join with the University administrators, Regents, and students in the development and execution of the instructional, research, and service functions of the University. Collective bargaining should be permitted on economic issues related to their role as employees, while professional and academic matters should be dealt with through shared governance mechanisms. Collective bargaining for academic staff in the UW System should be permitted on economic issues and other conditions of employment.

MAJOR ISSUE 4

Relationships between the Board of Regents, Administration, Faculty, Academic Staff, and Students:

What new policies would be required in collective bargaining legislation to guide the relationships between the Board of Regents, administration, faculty, and academic staff?

Any legislation providing for collective bargaining rights for faculty and academic staff should promote the character, purposes, and mission of the University of Wisconsin System as specified by the Legislature in the merger law. At this point it would be inappropriate to establish a different statement of public policy that would drastically change the recently-enacted merger law.

The merger law established a heterogeneous system in which institutions have individual missions and flexibility to carry them out. The law also provides a charter for "shared governance" within the University System. The bill specifies the powers and responsibilities of the Regents, President, chancellors, faculty, and students and defines the category of academic staff employees. Full rule-making implementation of this charter will take another two years, although the major policy building blocks should be in place by the end of the 1974-75 academic year. The collegial environment of shared governance will take additional time to develop at institutions where this concept has not fully matured. From the perspective of many who worked on the development of the new merger law (Chapter 36, Wisconsin Statutes, 1973), it would be contrary to the public policy established by the Legislature not to provide for the orderly implementation of

Chapter 36's letter and spirit. In the case of shared governance, implementation of the letter of the law will be accomplished quickly. Implementation of its spirit may take longer. The goal, however, is a vital one, since a strong tradition of shared governance is a characteristic of the nation's most prestigious and dynamic universities.

Conclusion

The merger law established and defined a charter for shared governance within the UW System and defines the powers and responsibilities of the Regents, President, chancellors, faculty, academic staff, and students. This charter and its fundamental principle of shared governance should continue to be the guiding policy for the UW System. One of the concerns in designing a collective bargaining entitlement for faculty and academic staff under such a charter lies in devising an arrangement that is workable and also accommodates and protects the heterogeneous character and the individual values of the institutions in the University of Wisconsin System.

MAJOR ISSUE 5

Principles and Practices of the UW System:

What principles and practices are essential components of the UW System that should be maintained in any collective bargaining arrangement developed for faculty and academic staff?

In its examination of the question of whether and how to extend collective bargaining rights to higher education while safeguarding the unique features of Wisconsin's system, the Task Force identified the following principles and practices which it feels are essential for the people of Wisconsin to maintain a public university system with excellence and which best serves the needs of the people of the state:

(1) University missions/institutional autonomy should be protected:
In keeping with the best interests of the people of Wisconsin as articulated in the merger statute and the merger implementation statute, the University of Wisconsin System is a federation of diverse educational institutions, each of which should have its own autonomy and have protection for its differing mission under controls established by the Board of Regents.

(2) Academic freedom and diversity of opinion should be preserved:
History has taught the people of Wisconsin that majority rule does not guarantee the rights of the minority. Nor is the will of the majority necessarily the final historical truth. It is in the best interests of the people of Wisconsin and, as a result its universities, to protect each individual professor's search for truth. This is the basic justification for tenure and academic freedom. This right should not be abridged.

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(3) The merit system should be maintained: In order to keep in the universities of Wisconsin those persons who excel in teaching, research and public service and in order to attract such persons, the Task Force believes that it is good public policy to maintain a system of merit as the basis for salary and promotional adjustments within the UW System. A university is built upon the collective abilities of individuals. Its quality is based to a large extent on those individual strengths. The University of Wisconsin System supports the means and sanctions which do the utmost to encourage individual excellence and which lead to the making of those tough, subjective judgments necessary to determine merit. The encouragement of individual excellence therefore requires that individual merit be recognized and rewarded to the ultimate and that the most discriminating judgment be used in making personnel decisions. Furthermore, each university in the UW System should retain those rights and privileges which enable it selectively to retain and reward--let alone attract--faculty on a merit basis.

(4) The authority/responsibility of the Regents, the President, and chancellors should be preserved in conformity with Chapter 36, Wisconsin Statutes: Both the merger law and the merger implementation law dictate specific and implied policy making and administrative responsibilities for the Regents, the President, and the chancellors. In all matters of policy the Regents have final authority. The President of the UW System--and under the President's direction, the Central Administration staff--has the authority to recommend, implement, and administer Regents' policies and to gather or be given such data

and make such reports as are necessary to manage effectively the UW System on behalf of the Regents. Again, for effective management of the universities of the people of Wisconsin, the chancellors shall, at the pleasure of the Board, have specific authority and responsibilities for the management of the campuses. This authority and responsibility shall not be infringed upon except by the Regents. Further, administrative integrity implies the ability of the institution to be able to respond in a timely and reasonable manner to problems that face it—fiscal, political, management, etc.—without the necessity for shared governance considerations of those matters which are not primarily related to the academic program. This is necessary if institutional autonomy is to be maintained within a federation of universities such as the UW System.

(5) Shared governance within the UW System should be protected and nurtured: The protection of academic shared governance in cooperation with the administration should be preserved. Shared governance includes, but is not limited to, such matters as: faculty personnel policy--including appointment, promotion, tenure, non-renewal, termination, layoff and the resultant grievance procedures--calendar definition, workload assignment, admissions, transfers, graduation requirements, curriculum and instruction, student participation in academic governance to a degree that is not covered by law, and initial reaction to budget priorities and peer judgment. Under Regent policy shared governance shall also deal with, but not be limited to, matters dealing with affirmative action and discrimination.

This shared governance model is justified in terms of the values and goals of the University of Wisconsin System--values and goals which are designed to serve the best interests of the people of the State of Wisconsin, as well as at times people from elsewhere within the country and around the world. The process of faculty governance involves a sharing in which both faculty and administration participate in policy-making, as differentiated from management functions. There needs to be a commitment to maintain and foster shared governance where it exists or where it is developing.

The merger implementation law also vests the faculty with "primary responsibility for the immediate governance of the institution" and gives the faculty the right to determine their own faculty organization structure.

(6) Students rights/responsibilities should be maintained as defined in Chapter 36, Wisconsin Statutes (1973): The merger implementation law provides that students of each institution shall--subject to the responsibilities of the Board of Regents, President, chancellor, and faculty--be active participants in the immediate governance and policy development for each institution.

(7) The concepts and principles of Chapter 36 of the 1973 Wisconsin Statutes should not be abridged nor shall they be bargainable: The concepts referred to in the preceding principles and those in Chapter 36 of the Wisconsin Statutes are statements by the Legislature of Wisconsin as to the principles which are essential for a high quality University of Wisconsin System. Hence, none of the principles contained herein nor any of those in Chapter 36 shall be directly or

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indirectly abridged by collective bargaining. Further, collective bargaining at any level in the University of Wisconsin System should not directly or indirectly limit, alter, refer to, nor discuss matters covered by this list of principles and Chapter 36, Wisconsin Statutes.

Conclusion

The following principles and practices of the University System are particularly essential for the people of Wisconsin to maintain a public university system with excellence and should be maintained in any collective bargaining arrangement developed for faculty:

a. *Institutional autonomy and separate missions for each institution*
b. *The tenure system*
c. *Academic freedom and diversity of opinion*
d. *A merit system for salary determination*
e. *A preservation of shared governance and the concepts embodied in Chapter 36, Wisconsin Statutes (1973)*
f. *Recognition of the responsibilities and authority of the Regents, President, chancellors, faculty, the academic staff, and the students as expressed in Chapter 36, Wisconsin Statutes (1973)*

MAJOR ISSUE 6

Specific Provisions in Enabling Legislation:

What specific provisions should be included in enabling legislation providing collective bargaining entitlement for University of Wisconsin System faculty and academic staff?

The Task Force concludes that any collective bargaining legislation covering public higher education in Wisconsin should be separate from and not a part of the state or municipal collective bargaining laws. This is necessary in order to continue Wisconsin's wise public policy of recognizing the nature of higher education as contained in Chapter 36, Wisconsin Statutes (1973).

In consideration of the increased costs associated with the development of collective bargaining capabilities with additional administrative staff requirements, including labor relations experts, legal counsel, hearing officers, statisticians, and secretaries, it is essential that a careful study be initiated in order to evaluate the magnitude of such added costs. This should be done with the expectation that additional state funds will be allocated and that these will be adequate to meet the added costs so that reductions in operational funds will not occur.

The Task Force spent some time in examining what specific provisions should be contained in any enabling legislation. Based upon its philosophical and policy conclusions stated in the previous sections of this report, the Task Force recommends the following:

(1) Principles and practices not to be abridged: Provision should be made specifically in the legislation that the following items will be maintained and not abridged:

a. Institutional autonomy and separate missions for each institution

b. The tenure system

c. Academic freedom and diversity of opinion

d. A merit system for salary determination

e. A preservation of shared governance and the concepts embodied in Chapter 36, Wisconsin Statutes (1973)

f. Recognition of the responsibilities and authority of the Regents, President, chancellors, the faculty, the academic staff, and the students as expressed in Chapter 36, Wisconsin Statutes (1973)

g. The provisions of the merger law shall take precedence over collective bargaining legislation and nothing negotiated through collective bargaining can result in diminishing the responsibilities and rights provided for in the merger law.

(2) Collective bargaining rights: The legislation should give faculty and academic staff the specific right to form, join, or assist organizations and to bargain collectively through representatives of their choosing. They should also have the right to refrain from those activities, and nothing directly or indirectly should abridge or limit the rights granted them under the merger law.

(3) Scope of bargaining: Salaries, fringe benefits, and matters related to working conditions (which are not subjects of shared governance

or management rights) may be bargained at the System, cluster, or institutional level. It should be a prohibited practice for the Board of Regents or the faculty to bargain about matters reserved to the faculty or otherwise outlined in the merger statute. Matters included within this definition or protected under Chapter 36's charter of shared governance include:

a. Personnel policies, including policies and decisions on hiring, promotion, renewal and non-renewal, tenure, layoff, discipline, and evaluation
b. Policies and decisions on workload, individual work assignments and schedules
c. Allocation of merit compensation
d. Academic matters, including, but not limited to, policies and decisions on curriculum, grading, admissions, degrees, majors, and instructional methods
e. Academic discipline and misconduct, including standards and procedures for dealing with allegations of academic dishonesty by students or professional misconduct by faculty and academic staff
f. Grievance procedures related to any or all of the above
g. The faculty governance structure itself at the campus, college, department, and sub-department level
h. Allocations and operations of segregated fee-funded activities
i. Policies and procedures of auxiliary services solely supported by student produced revenues

(4) Unit determination: Collective bargaining units should be at the institutional level with provision for one unit for faculty and one for academic staff at each institution.* Provision should be made that faculty and academic staff of an institution may by majority vote of each group constitute themselves into a single unit.

a. Notwithstanding the limitation on unit determination in 4 above, any law or medical school in the University of Wisconsin System may be constituted as a separate unit by majority vote of its faculty.

(5) Employer: The Board of Regents, through its representatives, shall be responsible for negotiating and administering on behalf of the state collective bargaining agreements with faculty and academic staff. In this role the Board should maintain close liaison with the Governor, the Department of Administration, and with the Legislative Joint Committee on Employment Relations. The Board should establish a collective bargaining capability within the Central Administration for systemwide bargaining on wages and fringe benefits. This capability shall also offer consultation and support in institutional bargaining. The Board should delegate to the chancellors the responsibility to bargain with assistance and coordination between campuses provided by Central Administration staff on the permissive subjects of working conditions on an institutional level. The Board, pursuant to section 36.09(3)(j) of the statutes which provides "that

*The institutions are UW-Eau Claire, UW-Green Bay, UW-La Crosse, UW-Madison, UW-Milwaukee, UW-Oshkosh, UW-Parkside, UW-Platteville, UW-River Falls, UW-Stevens Point, UW-Stout, UW-Superior, UW-Whitewater, UW-Center System, and UW-Extension.

the board shall establish salaries for persons not in the classified staff..." and pursuant to state budgetary procedures, shall make recommendations for adjusting compensation and employee benefits for faculty and academic staff that are not covered by a collective bargaining agreement.

(6) Employee agents: Representatives chosen for purposes of collective bargaining by faculty or academic staff can be any faculty or academic staff organization, including a faculty senate or other shared governance structure, whose purpose is to represent members of the faculty or academic staff in bargaining on matters within the scope of the legislation.

(7) Definition of faculty and academic staff: For purposes of defining unit membership, faculty should be defined as a member of the faculty as defined in Section 36.05(8) who has an appointment of one-half time or more under Section 36.13 of the statutes, and academic staff as a member of the academic staff as defined in Section 36.05(1) with an appointment under Section 36.15 and related rules.

(8) Elections: A petition by 30 per cent of the faculty or academic staff shall be required as a showing of sufficient interest to undertake an election to determine the establishment of a collective bargaining unit. In the case of an election for a faculty or academic staff unit, provision shall be made on the same ballot for voting simultaneously on two issues: (1) the approval or disapproval of collective bargaining; and (2) which of the bargaining agents designated to be placed on the ballot shall represent the faculty or academic staff (for the faculty election in a given institution, one of the proposed

bargaining agents may be its faculty senate or other shared governance structure authorized under section 36.09(4) of the Wisconsin Statutes). Only if 50 per cent plus one of those voting in the unit vote to approve collective bargaining under issue (1) shall the votes for representatives under issue (2) be counted. Then, if an organization under issue (2) receives 50 per cent plus one of those voting in the unit, it shall be certified as the representative. If no proposed bargaining agent receives 50 per cent plus one of the votes cast, the agent with the least number of votes shall be dropped from the ballot and another election shall be held. This procedure shall be repeated until one representative shall receive a majority of the votes cast. Provision shall be made that elections can be held only once during the year and not for at least a year following an election. Provision for change or discontinuance of existing representation should be provided similar to the SELRA provision.

(9) Hearing functions: It is essential that all cases requiring hearing and findings of fact affecting higher education regarding the handling of questions of recognition, certification, procedures for elections and hearings, unfair labor practices, provision of mediation services, etc., should be heard before one or more persons with expertise in higher education. To this end it is desirable that any collective bargaining statute for higher education provide for such a requirement. Provision could be made in one of two ways:

a. The establishment of a quasi-judicial tribunal separate from the Wisconsin Employment Relations Commission to deal with such cases.

b. The stipulation in law that the Wisconsin Employment Relations Commission shall provide for either a hearing examiner or a special tribunal to conduct such hearings and findings of fact with the requirement that the examiner shall have special expertise in higher education or that one or more members of the tribunal shall have such expertise.

(10) Impasse procedures: Mediation services should be provided by the WERC in the actual bargaining of the agreement consistent with paragraph 9.

(11) Arbitration: Arbitration services may be provided if agreed to by the parties and may deal with questions of interpretation and application of the collective bargaining agreement. The parties may choose any mutually acceptable third party as arbitrator.

(12) Role of students: Recognizing the role of students as a vital and integral part of the UW System, the parties may by mutual agreement invite a representative student to be an observer at the negotiating sessions.

(13) Procedure for approval of agreements: Agreements on wages and fringe benefits reached between representatives of the employees and the Board of Regents, after ratification by the employee group and Board of Regents, shall be submitted to the Joint Committee on Employment Relations and follow the same process for approval as provided in the State Employment Labor Relations Act.

(14) Fair share provision: A fair share arrangement similar to the SELRA provision should be permitted, but with a provision that any member may sign a "conscience clause" removing himself from the provisions of the agreement.

Conclusion

Any enabling legislation providing collective bargaining rights for faculty and academic staff should be separate from and not a part of the state or municipal collective bargaining laws and include specific provisions in the following key areas: Principles and practices not to be abridged, collective bargaining rights, scope of bargaining, unit determination, the employer, employee agents, definition of faculty and academic staff, elections, hearing function, impasse procedures, arbitration, role of students, procedure for approval of agreements, and fair share provision.

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MINORITY STATEMENT

The undersigned Task Force members, while finding substantial agreement with the recommendations contained in the report, wish to register fundamental disagreement with it on the following two particular issues:

Issue 1: What should be the scope of bargaining for faculty and academic staff of the University of Wisconsin System?

Recommendation: Faculty and academic staff should be extended the right to bargain on all subjects relative to compensation and conditions of employment.

Rationale: Restricting the scope of bargaining to exclude all subjects that might be handled through the diverse mechanisms of faculty governance would hamper successful bargaining by either party. Attempts to limit the scope of bargaining to economic matters only fail to recognize the economic significance of nearly all conditions of employment. Since one of the primary purposes of collective bargaining is to provide organized and structured procedures for resolving conflict, it would be unwise to forego the use of bargaining on issues that existing governance structures have failed to resolve.

Experience has shown that in negotiations under the National Labor Relations Act when one side or the other wants to bargain on a particular issue, it is eventually bargained, whether or not it is legal under the Act. In Wisconsin the restricted scope of bargaining under the original State Employment Relations Act was found to be undesirable from the point of view of both the state and the classified employees. Upon the recommendation of the Governor's Advisory Committee on State Employment Relations, these restrictions

were removed by the 1972 legislature. It would seem quite unrealistic to ignore these experiences and prohibit faculty from bargaining on working conditions when we know there are many unresolved conflicts in this area. Why not prepare collective bargaining legislation which will regularize and keep within the law the bargaining on all issues which will inevitably ensue?

Beyond this, it would seem to be startingly inconsistent to permit academic staff to bargain on working conditions while denying faculty the same right. Yet, this is exactly what the majority report of the Task Force has recommended. Such an arrangement is sure to create serious morale problems.

Issue 2: Should individual members of a bargaining unit be permitted to opt out of an obligation to a fair share agreement?

Recommendation: There should be no provision for a "conscience clause" as provided in the majority report.

Rationale: If bargaining is conducted for a unit which has adopted a fair share agreement, all members of the unit should pay their "fair share" of the bargaining costs. The fair share agreement is only a financial obligation and does not require union membership as a condition of employment.

Jerry B. Culver

James C. Devitt

Robert Durkin

Marshall E. Wick

APPENDIX A

Statements from Faculty, Students and Staff

At its first meeting, the Task Force agreed that the faculty, staff and students should be invited to submit their comments and concerns about university governance as it is presently structured, their suggestions for improving faculty participation, and opinions of the desirability of collective bargaining within the System. The invitation was published in Faculty Memo and also was expressed to the Chancellors with a request that they, in turn, inform their faculties and students. The following individuals and groups submitted statements, which were reproduced and distributed to the Task Force membership:

J. D. Alexander, Assistant Professor, UW Center-Marshfield/Wood County

AFL-CIO Local 79, UW-Milwaukee

American Federation of Teachers Local 917, UW-Eau Claire

Summary of Professor Barbash's student's survey of faculty opinion

B. L. Barrington, Professor, UW Center-Marathon County

R. Byron Bird, Professor, UW-Madison

Robert Birnbaum, Chancellor, UW-Oshkosh

F. G. Cassidy, Professor, UW-Madison

J. R. Dillinger, Professor, UW-Madison

B. C. Easterday, Professor, UW-Madison

D. Fellman, Professor, UW-Madison

J. D. Ferry, Professor, UW-Madison

J. Fitzgerald, Associate Professor, UW Center-Marathon County

L. Gushee, Associate Professor, UW-Madison

L. Haas, Chancellor, UW-Eau Claire

J. Hamilton, President, UW-Stevens Point Student Senate

W. H. Hansell, Assistant Professor, UW Center-Sheboygan County

V. Haubrich, Professor, UW-Madison

L. E. Hokin, Professor, UW-Madison

T. L. W. Johnson, Associate Registrar, UW-Madison

D. W. Kerst, Professor, UW-Madison

J. F. Meggers, Acting Chancellor, UW Center System

E. Moore, Assistant Professor, UW-Madison

R. Nilsestuen, President, United Council of Student Governments

W. Pautz, Chairman, UW-Eau Claire Faculty Senate

F. L. Pierce, Jr., Assistant Professor, UW Center-Marathon County

H. C. Pitot, Professor, UW-Madison

L. B. Rall, Professor, UW-Madison

R. W. Robinson, Professor, UW Extension

M. D. Schur, Administrative Secretary, UW-Milwaukee

D. Stepien, Specialist, UW-Madison

W. E. Stewart, Professor, UW-Madison

W. H. Stone, Professor, UW-Madison

R. N. Stromberg, Professor, UW-Milwaukee

J. G. Udell, Professor, UW-Madison

United Faculty, UW-Madison

University Committee, UW-Madison

UW-Milwaukee Task Force on Collective Bargaining

H. D. Weinbrot, Professor, UW-Madison

P. Willoughby, Assistant Professor, UW-Madison

V. K. Wrigley, Associate Professor, UW Center-Waukesha County

APPENDIX B

Appearances and Statements from Organized Groups

In order to ensure that any organized groups within the University System had an opportunity to express their opinions, a letter was addressed to the leaders of all known groups such as faculty senates, university committees, faculty unions, and student organizations inviting them to submit written statements to the Task Force and to have a representative respond to questions by the Task Force members at the meetings on September 27 and October 23, 1974. The list below indicates the names of the groups that responded to this invitation and the names of the representatives who acted as spokespersons.

Constituency	Representative
UW-Green Bay Faculty Senate	- - -
UW-LaCrosse Faculty Senate	Robert L. Burns, Chairman
UW-Madison University Committee	Ted Finman, Chairman
UW-Milwaukee University Committee	Robert B. Ingle, Chairman
UW Center System Faculty	Margaret I. Leonard, Associate Professor
UW Extension University Committee	James E. Hall, Chairman
United Council of Student Governments	James R. Hamilton, President
Wisconsin Conference, American Association of University Professors	Barbara Parsons, President
Wisconsin Education Association Council	Donald E. Krahn, Director of Field Services
American Federation of Teachers, Local 79	Richard L. Cummings, President
United Faculty - AFT Local 223	Michael Bleicher, President
The Association of University of Wisconsin Faculties	Jerry Culver, President

Constituency	Representative
Chancellors: Edward W. Weidner, UW-Green Bay	- - -
State Department of Administration	Wayne F. McGown, Deputy Secretary
UW Central Administration	Donald K. Smith, Sr. Vice President

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~~Wisconsin Rapids 54494~~

August 8, 1974

The Regents Task Force on University Governance and Collective Bargaining several months ago invited interested faculty, staff and students to submit in writing and now has received numerous comments and concerns pro and con about university governance as it is presently structured; suggestions for improving faculty participation; and opinions on the desirability of collective bargaining within the UW System. However, the Task Force wishes to ensure that any groups--such as TAUWF, university committees, faculty senates and student organizations--have an opportunity to present their views in writing and to appear before the Task Force to answer questions about their group's position. Therefore, this is to invite you on behalf of your organization or constituency to submit a written statement expressing your goals, desires, questions, problems or concerns about university governance and collective bargaining.

This invitation is being sent to a wide range of organizations with the aim of giving all possible interested groups an opportunity to respond. However, the Task Force is perfectly willing to receive joint responses from any organizations that may wish to coordinate their efforts.

The Task Force is scheduling its next meeting at 9 a.m. on September 27 in 1820 Van Hise Hall, at which time a spokesman for each group that has submitted a paper is requested to be available to respond to questions only regarding that group's position.

You are requested to limit your paper to three double-spaced typewritten pages or, if you have a lengthy document, to provide a summary of no more than three double-spaced typewritten pages with your submission. Papers should be submitted to Wallace Lemon, 1762 Van Hise Hall, by Tuesday, September 3, along with the name of the person designated as spokesman for your group. If you have any further questions, please contact Mr. Lemon.

Sincerely,

John M. Lavine

John M. Lavine, Chairman
Regents Task Force on
University Governance and
Collective Bargaining

APPENDIX C

Summary of Johnson Foundation Sponsored Contest

A contest was sponsored by the UW System Regents to seek innovative ideas that would solve the real problems of university faculty while doing as much as possible to lessen or avoid the adversary nature of collective bargaining. The prizes were paid from a grant from The Johnson Foundation of Racine, Wisconsin. The contest was announced in local and national publications, and 75 entries were received from across the states.

The first prize for an overall plan to permit collective bargaining by faculty on wages, fringe benefits and some limited economic issues--without upsetting traditional faculty control of academic matters--was shared by Dennis H. Blumer, Executive Assistant to the Chancellor of the University of Maryland, and Neil S. Bucklew, Vice President of Central Michigan University.

Instead of calling for traditional collective bargaining on all issues on the university scene, the Blumer and Bucklew proposals limited bargaining to economic issues and then recognized faculty governance as a unique, more sophisticated form of decision making for the University and its faculty, since faculty governance is non-adversary in nature.

Second prize was for the best single idea, and it was also equally divided. Half was awarded to Professor Michael Bleicher, a UW-Madison professor and leader of a faculty union local, whose basic idea was to avoid strikes by requiring that the faculty put a percentage of their salaries into an escrow fund to be matched by an even greater amount from the state, instead of stopping work in a strike. The other half of the award was given to the United Council of Student Governments for a proposal that students be included in faculty-state collective bargaining.

APPENDIX D

Discussions with National Authorities

In order to gain insight into the national picture, the Task Force asked Dennis H. Blumer, then Director of the Academic Collective Bargaining Information Service, to inform them about the issues and the components of existing laws. Mr. Blumer provided a lengthy written analysis and attended the August 2, 1974 meeting where he answered questions from the Task Force members.

In November 1974 a conference on university governance and collective bargaining was sponsored by the Johnson Foundation in cooperation with the Regents Task Force. The purpose was to provide a colloquy in which the Task Force members and nationally known scholars and experts could define and discuss the basic issues involved in collective bargaining and governance in higher education institutions. The focus was on a discussion of the basic principles, models and concerns that have emerged in collective bargaining in higher education in the nation as well as how they might apply to Wisconsin's particular system of public higher education.

The following met for two days with the Task Force at "Wingspread," the Johnson Foundation Conference Center:

William H. Baumer
Assistant Vice President for Academic Affairs
State University of New York at Buffalo

James P. Begin, Associate Research Professor
Institute of Management and Labor Relations
Rutgers University

Dennis H. Blumer
Executive Assistant to the Chancellor
University of Maryland

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Neil S. Bucklew, Vice President
Central Michigan University

Matthew S. Finkin, Associate Professor of Law
Southern Methodist University

Kenneth P. Mortimer, Associate Professor
Center for the Study of Higher Education
Pennsylvania State University

Minutes of this conference are available in the office of Associate Vice President Wallace Lemon, UW System Central Administration.